

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ISAIAH KENNEDY,

Plaintiff,

v.

Case No. 8:23-cv-913-KKM-SPF

CARMAX, INC., et al.,

Defendant.

ORDER

On May 15, 2023, the United States Magistrate Judge entered a Report and Recommendation, recommending that Plaintiff Isaiah Kennedy's Motion to Proceed In Forma Pauperis (Doc. 2) be denied and his complaint (Doc. 1) be dismissed for failing to state a claim. R&R (Doc. 5). The fourteen-day deadline, and an additional three days as required under Federal Rule of Civil Procedure 6(d), for Kennedy to object to the Magistrate Judge's Report and Recommendation has passed without him lodging an objection. Considering the record, the Court adopts the Report and Recommendation for the reasons stated therein; denies Kennedy's Motion to Proceed In Forma Pauperis; and dismisses Kennedy's complaint.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's Report and Recommendation. 28 U.S.C. § 636(b)(1). If a party files a timely and specific objection to a finding of fact by a magistrate judge, the district court must conduct a de novo review with respect to that factual issue. *Stokes v. Singletary*, 952 F.2d 1567, 1576 (11th Cir. 1992). The district court reviews legal conclusions de novo, even in the absence of an objection. See *Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Ashworth v. Glades Cnty. Bd. of Cnty. Comm'rs*, 379 F. Supp. 3d 1244, 1246 (M.D. Fla. 2019).

In the absence of any objection and after reviewing the factual allegations and legal conclusions, the Court adopts the Report and Recommendation. Kennedy's complaint fails to allege facts that support each of the elements of a claim under the Fair Debt Collection Practices Act or the Truth in Lending Act. And his identity theft claims against Lexis Nexis fail because there is no private cause of action for a violation of those criminal statutes.

Accordingly, it is **ORDERED**:

1. The Magistrate Judge's Report and Recommendation (Doc. 5) is **ADOPTED** and made a part of this Order for all purposes.
2. Kennedy's Motion to Proceed In Forma Pauperis (Doc. 2) is **DENIED**.

3. Kennedy's Complaint (Doc. 1) is **DISMISSED** without prejudice.
4. **By June 26, 2023**, Kennedy may file an amended complaint that complies with the pleading requirements set forth in the Federal Rules of Civil Procedure and that corrects the deficiencies identified above and in the Report and Recommendation. Kennedy must also pay the full filing fee or submit a renewed motion to proceed in forma pauperis together with any amended complaint. Failure to comply with these directives will result in dismissal of this case without further notice.

ORDERED in Tampa, Florida, on June 5, 2023.


Kathryn Kimball Mizelle
United States District Judge